

STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
STATE BOARD OF NURSING

IN THE MATTER OF THE SUSPENSION OR  
REVOCATION OF THE CERTIFICATE OF

Administrative Action

EVELYN DELGADO, C.H.H.A.  
Certificate No. 26NH02664100

FINAL ORDER OF DISCIPLINE

TO PRACTICE AS A CERTIFIED  
HOMEMAKER HOME HEALTH AIDE  
IN THE STATE OF NEW JERSEY

This matter was opened to the New Jersey State Board of Nursing (the "Board") upon receipt of information which the Board has reviewed and upon which the following findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. Evelyn Delgado ("Respondent") is the holder of certificate number 26NH02664100 and has been a Certified Homemaker Home Health Aide (CHHA) at all relevant times.

2. On or about December 2, 2013, the Board received a flagging notice advising that Respondent was arrested on November 30, 2013 in Totowa by the State Police for the following charge: (1) count of Use/Influence of Controlled Dangerous Substance, in violation of N.J.S.A. 2C:35-10(B).

3. Upon receipt of the flagging notice, the Board sent a letter of inquiry, requesting certain information and submission of documents, to Respondent's address of record, via regular and certified mail on or about December 9, 2013. The United States Postal Service indicated that the certified mail was unclaimed. The regular mail was not returned.

4. Respondent did not provide a response to the Board's request for information.

#### CONCLUSIONS OF LAW

Respondent's failure to respond to the Board's request for information constitutes a failure to cooperate with a Board investigation, in contravention of N.J.A.C. 13:45C-1.2, -1.3, in violation of N.J.S.A. 45:1-21 (e), subjecting Respondent to disciplinary action pursuant to N.J.S.A. 45:1-21 (h).

Respondent's failure to provide the Board with a valid address constitutes a violation of N.J.A.C. 13:37-5.7.

Based on the foregoing findings and conclusions, a Provisional Order of Discipline seeking a suspension and a two

hundred dollar (\$200) civil penalty was entered on March 14, 2014. Copies were served upon Respondent via regular and certified mail. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the thirtieth day following entry unless Respondent requested a modification or dismissal of the stated findings of fact and conclusions of law by setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor.

Respondent timely responded to the Provisional Order of Discipline by maintaining that she never received either the regular or certified mailing of the letter that was originally sent by the Board in December 2013. We conclude that because the letters were mailed to Respondent's address of record, which is the same address where Respondent received the Provisional Order, and the regular mail was not returned, service is deemed effective pursuant to N.J.A.C. 13:37-5.7 and 13:45-3.2. The certified mail was returned as unclaimed.

Respondent also maintained that the drug-related charges were dismissed, as were fifteen traffic violations, and that the only charges that were sustained as a result of the November 30,

2013 arrest were two traffic charges (failure to give a proper signal and careless driving causing property damage). Respondent was assessed fines and costs totaling \$328, which she paid.

Later, Respondent provided an additional reply which responded to some of the outstanding requests that were included in the Board's December 2013 letter. Respondent provided copies of the police reports, information about her current employment, and a narrative of what led to her arrest. Respondent maintains that she blacked out due to low blood sugar and lost control of her car, hitting a divider. She maintains that she takes prescription medication. However, she provided some inconsistent information. She provided a letter from her doctor stating that she has diabetes, back pain, and anemia and that Respondent takes Tramadol and Ambien. No medications for low blood sugar or diabetes were mentioned. Additionally, on the date of the arrest, when questioned, Respondent indicated that she did not have diabetes, that she was not taking insulin, and that she had taken Tramadol and Ambien. The municipal court complaint lists 21 pills of Zolpidem (Ambien) in her possession at the time of the arrest.

The Board received additional information indicating that the drug-related charges were sent from Newark Municipal Court

to Special Remand Court of the Superior Court of New Jersey, but has received no further information.

The Board reviewed Respondent's submissions and determined that further proceedings were not necessary and that no material discrepancies had been raised. The Board was not persuaded that the submitted materials merited further consideration. Inasmuch as Respondent provided the information originally requested, the Board determined that suspension was no longer warranted and has modified the provisional penalty. However, the Board determined that Respondent's failure to respond to the original inquiry, thereby necessitating the filing of the Provisional Order of Discipline, and review of Respondent's subsequent reply one year later, warrants imposition of a two hundred dollar (\$200) civil penalty.

ACCORDINGLY, IT IS on this 21<sup>st</sup> day of November, 2014,

ORDERED that:

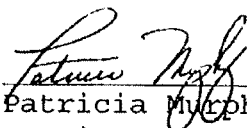
1. A civil penalty in the amount of two hundred dollars (\$200) is hereby imposed. Payment shall be made by certified check, bank cashier check, or money order payable to "State of New Jersey," or by wire transfer, direct deposit, or credit card payment delivered or mailed to George Hebert, Executive Director, State Board of Nursing, P.O. Box 45010, Newark, New Jersey 07101. Any other form of payment will be rejected and

will be returned to the party making the payment. Payment shall be made no later than fifteen (15) days after the date of filing of this Final Order of Discipline. In the event Respondent fails to make a timely payment, a certificate of debt shall be filed in accordance with N.J.S.A. 45:1-24 and the Board may bring such other proceedings as authorized by law.

2. The Board reserves the right to initiate disciplinary action based upon any information received in response to the Board's December 2013 letter or from any other source.

NEW JERSEY STATE BOARD OF NURSING

By:

 Patricia Murphy, PhD, APN  
President